RESOLUTION ACCEPTING THE RESIGNATION OF LISA BATTISTA FROM THE CITY OF MODESTO’S CITIZENS’ HOUSING AND COMMUNITY DEVELOPMENT COMMITTEE

WHEREAS, the Citizens’ Housing and Community Development Committee was established to make policy and funding recommendations regarding the Community Development Block Grant, Emergency Solutions Grant, and HOME Investment Partnership Grant programs; and

WHEREAS, on August 14, 2018 by Resolution No. 2018-325, Lisa Battista was appointed to the City of Modesto’s Citizens’ Housing and Community Development Committee; and

WHEREAS, Ms. Battista submitted her resignation on June 5, 2019 as she will no longer be able to serve on the committee due to personal reasons.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto accepts the resignation of Lisa Battista from the City of Modesto’s Citizens’ Housing and Community Development Committee.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 7th day of August, 2019, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Ah You, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(Seal)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
RESOLUTION ACCEPTING THE RESIGNATION OF SAVANNAH WILLIAMS FROM THE CITY OF MODESTO’S CITIZENS’ HOUSING AND COMMUNITY DEVELOPMENT COMMITTEE

WHEREAS, the Citizens’ Housing and Community Development Committee was established to make policy and funding recommendations regarding the Community Development Block Grant, Emergency Solutions Grant, and HOME Investment Partnership Grant programs; and

WHEREAS, on May 7, 2019 by Resolution No. 2019-199, Savannah Williams was appointed to the City of Modesto’s Citizens’ Housing and Community Development Committee; and

WHEREAS, Ms. Williams submitted her resignation on May 9, 2019 as she will not be able to serve on the committee due to personal reasons.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto accepts the resignation of Savannah Williams from the City of Modesto’s Citizens’ Housing and Community Development Committee.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 7th day of August, 2019, by Councilmember Grewal, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2019-351

RESOLUTION APPROVING A TWO YEAR CONTRACT WITH ECCOVIA SOLUTIONS FOR HOMELESS MANAGEMENT INFORMATION SYSTEM (HMIS) ADMINISTRATION SERVICES IN AN AMOUNT NOT TO EXCEED $115,200 AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE AGREEMENT

WHEREAS, on July 11, 2017, by Resolution No. 2017-289, the City assumed the Collaborative Applicant role for the COC, and

WHEREAS, the City is responsible for administration and oversight of the Homeless Management Information System (HMIS) for COC, and

WHEREAS, the City utilizes a tool called ClientTrack by Eccovia, an HMIS system which is a requirement by HUD which enables the network of homeless service providers to collect uniform client information over time including the size, characteristics, and needs of the homeless population, and

WHEREAS, the system meets Federal requirements, collaborates, and enhances homeless prevention services delivery, and

WHEREAS, ClientTrack offers HMIS Administrator Services which can assist with continued compliance with federal partner standards, advise on effective HMIS policy, and administer day-to-day system operations, and

WHEREAS, the community is transitioning into a shared data system which will increase the effectiveness of homeless funds and the people being served in the community, and

WHEREAS, this service will also create a more streamlined approach to Coordinated Entry which is the process developed to ensure that all people experiencing
a homeless crisis have fair and equal access, and are quickly identified, assessed for, referred and connected to housing and assistance based on their strengths and needs, and

WHEREAS, ClientTrack HMIS administrators have over ten years of experience, and has intimate knowledge of the unique needs faced by communities large and small in supporting a truly functional and integrated HMIS, and

WHEREAS, MMC 8-3.204(b) provides that a purchase may be exempted from the City’s formal bidding requirement where the Purchasing Agency’s requirements can be met solely by a single article or process, and

WHEREAS, MMC 8-3.204(d) provides that a purchase may also be exempted where the Purchasing Manager, in her discretion, determines that a process other than the formal bid procedure set forth in Section 8-3.203 will result in procurement for the City at the lowest possible cost commensurate with the desired quality, and

WHEREAS, ClientTrack should be exempt from the formal bidding procedure in accordance with the Modesto Municipal Code 8-3.204(b), since as our contracted HMIS software provider no other company can provide the internal software programming updates to their software, and

WHEREAS, services will be paid for by California Emergency Solutions and Housing (CESH) grant funds in partnership with Stanislaus County.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a two year contract with Eccovia Solutions for Homeless Management Information System (HMIS) Administration Services in an amount not to exceed $115,200.
BE IT FURTHER RESOLVED that the City Manager or his designee, is hereby authorized to execute the agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 7th day of August, 2019, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Grewal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(SEAL)

APPROVED AS TO FORM:

By: 

ADAM U. LINDGREN, City Attorney
RESOLUTION APPROVING THE SUBMISSION OF A GRANT APPLICATION AS THE COLLABORATIVE APPLICANT FOR CONTINUUM OF CARE FUNDS; AND APPROVING A CONTRACT WITH THE CENTER FOR COMMON CONCERNS, INC. DBA HOMEBASE FOR ASSISTANCE WITH THE CONTINUUM OF CARE GRANT IN AN AMOUNT NOT TO EXCEED A TOTAL OF $62,000, AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE AGREEMENT AND ANY RELATED GRANT DOCUMENTS

WHEREAS, on July 11, 2017, by Resolution No. 2017-289, the City assumed the Collaborative Applicant role for the COC, and

WHEREAS, as the Collaborative Applicant, the City is responsible to collect and submit the required Continuum of Care application information for all projects the COC selects for funding, and

WHEREAS, the City is responsible for administration and oversight of the Homeless Management Information System (HMIS) for COC, and

WHEREAS, the City will be responsible for submitting the grant of approximately $3.3 million on behalf of the community and local COC, and

WHEREAS, if the funding is approved, agreements are executed directly from HUD to the agencies running the projects, and

WHEREAS, as the Collaborative Applicant for a COC, the City is eligible to apply for a Planning Grant and HMIS Grant to help offset staffing and oversight costs, and

WHEREAS, the Planning Grant application can total up to 3% of the total grant application; it is anticipated that the application will be approximately $105,000, and

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1 https://csocstan.com/
WHEREAS, the grant includes funding for salary and benefits, in order to assist with coordination, project evaluation, monitoring, and compliance of the COC program awarded participants, and

WHEREAS, HMIS\textsuperscript{2} is a requirement by HUD which enables the network of homeless service providers to collect uniform client information over time including the size, characteristics, and needs of the homeless population, and

WHEREAS, the system meets Federal requirements, collaborates, and enhances homeless prevention services delivery. The grant includes funding for salary and benefits, oversight, computer software, training, and licenses for the client management software, and

WHEREAS, City staff anticipates applying for $225,000, and

WHEREAS, the grant requires a 25% match that will come from fees for additional reporting support and user licenses for agencies that request them, and

WHEREAS, Administrative Directive 7.2 Grant Management, grant award acceptance requires Council approval based on the award requiring local match funding, and

WHEREAS, over the last three years, the COC has contracted with The Center for Common Concerns dba Homebase for assistance with the Notice of Funding Availability, and

WHEREAS, HomeBase provides diverse capacity-building support to communities, COCs, and individual agencies across the country, with expertise in

\textsuperscript{2} \url{https://www.hudexchange.info/programs/hmis/} - A Homeless Management Information System (HMIS) is a local information technology system used to collect client-level data.
facilitating action planning and assisting stakeholders in identifying, implementing and monitoring best and promising practice approaches to ending homelessness, and

WHEREAS, HomeBase will work closely with the COC, its committees, and agency applicants in compiling and submitting by the deadline a fully qualified, strong, consolidated application to HUD, including the COC Application, project proposals, and all required forms and certifications, and

WHEREAS, based on the services provided and HomeBases's intricate history, knowledge, and expertise with the Stanislaus Community System of Care and the complexities of the U.S. Department of Housing and Urban Development's application process, it has been identified and confirmed as a Professional Service as defined under MMC 8-3.103, and

WHEREAS, Modesto Municipal Code Section 8-3.204 generally requires all purchases, in excess of fifty thousand dollars ($50,000) to follow formal bid procedures. However, MMC 8-3.204(a) provides an exemption to the formal bidding process for professional services. Therefore, HomeBase should be exempt from the formal bidding procedure in accordance with Modesto Municipal Code 8-3.204(a).

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the submission of a grant application as the Collaborative Applicant for Continuum of Care funds; and approving a contract with The Center for Common Concerns, Inc. dba HomeBase for assistance with the Continuum of Care Grant in an amount not to exceed a total of $62,000.

BE IT FURTHER RESOLVED that the City Manager or his designee, is hereby authorized to execute the agreement, and any related grant documents.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 7th day of August, 2019, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Grewal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: 

(STEPHANIE LOPEZ, City Clerk)

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
RESOLUTION APPROVING THE FIRST AMENDMENT INCREASING THE AGREEMENT AMOUNT WITH COMMUNITY REINVESTMENT FUND (CRF), FOR CONTINUED LOAN SERVICING OF HUD FUNDED LOANS BY $40,000 FROM $50,000 TO A NEW TOTAL AMOUNT OF $90,000 AND EXTENDING THE TERM OF THE AGREEMENT FROM MAY 1, 2020 TO JUNE 30, 2023 AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE AMENDMENT

WHEREAS, as a HUD entitlement community, the City receives a formula grant allocation each year for the following type of funding: Community Development Block Grant (CDBG), HOME Investment Partnerships (HOME), and Emergency Solutions Grant (ESG) funds, and

WHEREAS, this funding is allocated to eligible projects for homeowner repair and acquisition and rehabilitation of new housing units, and

WHEREAS, an agreement is executed to secure funds in a loan or a grant, and to ensure the property remains affordable under the grant terms and guidelines, and

WHEREAS, the City receives program income from these outstanding loans on a monthly basis, and

WHEREAS, in order to manage the loan profile, the City of Modesto contracts with a loan servicer who manages the loan profile and collects the monthly program income payments from the outstanding loans, and

WHEREAS, the City of Modesto has utilized CRF loan servicing to manage our HUD loan profile since 1994, and

WHEREAS, the most recent contract was executed in 2015 and the City has previously exercised its right to extend the contract for the last three years, and

WHEREAS, the current contract is approaching expending $50,000, and
WHEREAS, staff is requesting an additional three year extension for this agreement, with a total amount not to exceed $90,000, and

WHEREAS, since 2017, staff has been reviewing all of the outstanding loan and grant documents, and

WHEREAS, staff has systematically been scanning and verifying loan terms and affordability requirements, and

WHEREAS, at this time, the project is at approximately 70% of completion, and

WHEREAS, Staff will need to continue with this process and ensure a total inventory of all of loans, prior to moving forward with a transition, therefore, it is recommended to continue the contract with CRF until the City’s entire loan program is on file, and

WHEREAS, we project this to take an additional 12-24 months, and

WHEREAS, the loan servicing fees are paid from the loan repayments received on a monthly.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the First Amendment increasing the agreement amount with Community Reinvestment Fund (CRF), for continued loan servicing of HUD funded loans by $40,000 from $50,000 to a new total amount of $90,000 and extending the term of the agreement from May 1, 2020 to June 30, 2023.

BE IT FURTHER RESOLVED that the City Manager or his designee, is hereby authorized to execute the agreement, in a form approved by the City Attorney.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 7th day of August, 2019, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Grewal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:  

(SEAL)

APPROVED AS TO FORM:

By:  

ADAM U. LINDGREN, City Attorney
RESOLUTION ACCEPTING THE LANDMARK PRESERVATION COMMISSION ANNUAL REPORT FOR FISCAL YEAR 2018-2019

WHEREAS, Section 1104 of the City Charter specifies that appointed commissions shall report on their fiscal year activities to City Council on or before September 1 of each year, and Section 9-10.03(d) of the Modesto Municipal Code specifies that the Landmark Preservation Commission shall report its activities to City Council each year, and

WHEREAS, at its regular meeting of June 17, 2019, at 1010 10th Street, Modesto, California, the Landmark Preservation Commission accepted the Annual Report for Fiscal Year 2018-2019, and

WHEREAS, said matter was scheduled for the regular City Council meeting of August 7, 2019, in the 10th Street Palace Chambers located at 1010 10th Street, Modesto, California.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds and determines that the Landmark Preservation Commission Annual Report for Fiscal Year 2018-2019 as described in Exhibit "A", attached hereto and incorporated herein by reference, is accepted.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 7th day of August, 2019, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Grewal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
LANDMARK PRESERVATION COMMISSION ANNUAL REPORT
FOR FISCAL YEAR 2018-2019

The City of Modesto Landmark Preservation Commission (Commission) was formed by the City Council to promote public recognition and appreciation for Landmark Preservation Sites and for the City’s history; to conduct continuing surveys and research in order to identify and classify as to their relative importance, properties which have historic, architectural, archaeological, engineering, or cultural significance to the community; to recommend properties which meet the criteria of significance for designation as Landmark Preservation Sites; to protect Landmark Preservation Sites by public review of proposed alterations, relocations, demolitions, or new construction affecting those properties; and to advise property owners and educate the public in appropriate maintenance, rehabilitation, or restoration methods and to encourage continued use of such properties. The Commission is also responsible for requesting of the Board of Zoning Adjustment, the Planning Commission, various City departments, or the City Council adoption of measures required or appropriate for the preservation, protection, or maintenance of Landmark Preservation Sites; providing general preservation plans and guidelines to owners of Landmark Preservation Sites regarding appropriate maintenance, restoration, and rehabilitation; promoting public recognition and appreciation for Landmark Preservation Sites; and for the solicitation of gifts and contributions to support the activities and purposes of the Commission.

The Commission meets on the third Monday of the month at 1:00 p.m. The 2018-2019 Annual Report highlights a few key projects the Commission has worked on this year.

I. MEMBERSHIP

The Landmark Preservation Commission is currently comprised of a total of five (5) registered voters residing in Modesto, with two vacant positions. A total of nine (9) commissioners have served during the past fiscal year.

Current Commissioners:
- Joseph Cahill
- Patrick Cavanah (Culture Commission Representative)
- Will Crew
- Naramsen Goriel
- David Leamon
- Matthew Lippert (Chair)
- David Roddick (Vice Chair)

Former Commissioners:
- Joanna Esparza *

* Resigned from Landmark Preservation Commission for personal reasons
II. BYLAWS

No bylaws amendments were proposed or adopted during the fiscal year.

III. PROJECTS

Web Pages

In addition to the Landmark Preservation Commission page, the Landmark Preservation Program now has web pages to promote Modesto’s history and raise the profile of established landmarks, as well as other historic properties. The web site is regularly updated with agendas, minutes, and resolutions. A new Historic Guide to Modesto: Modesto Landmarks 1870 - 1940 (http://www.modestogov.com/1967/History-of-Modesto) brochure has been added to the web site that can be used on mobile phones or printed.

Mills Act Contract Monitoring

In accordance with the existing Mills Act contracts on 12 landmark properties, staff has requested property owners update the list of improvements that is attached to each contract. Mills Act contracts require the list be updated to ensure the properties are being maintained as required by the contract. Nine property owners responded in 2018. Two of the three remaining property owners have responded by providing an updated list of improvements.

Update Ordinance

Updates to the Landmark Preservation Ordinance, Title 9, Chapter 10. of the Modesto Municipal Code were approved by City Council after review by the Landmark Preservation Commission. Amendments were minor in nature and typically reflected changes to the way the Landmark Preservation Program is administered.

Applications and Permits Reviewed

Landmark 19: In February, the Commission took a guided field trip to the Southern Pacific Railroad Depot in anticipation of an application to modify the site. The City's Transit Manager, Adam Barth, and architect Barrett Lipomi of RED Architects narrated their concerns with the current programming of the building and site and discussed ideas for accommodating increased passenger traffic in the future.

Future Projects

In addition to evaluating resources nominated for landmark status, the Commission is responsible for reviewing proposed alterations to historic resources and proposed demolitions. Applications are processed on a case-by-case basis.
Other projects that may be undertaken by the Commission include:

**Update the status of buildings in the historic resources survey.** More than 20 years have passed since Modesto hired Carey & Co. to prepare a survey of some of Modesto's historic resources that were 50 years old or older at the time of the survey. During that time, many buildings have been altered or demolished and the city's records should be updated. This is a multi-year project.

**Develop historic brochures.** Cities often highlight their historic resources by preparing walking tours or brochures, often themed. Brochures promote the city's unique history, civic involvement and pride, and offer added appeal for visitors. Three brochures have been produced to date highlighting Modesto's landmarks, buildings from the Establishment Period, and Mid-Century Modern buildings. Additional brochures will feature other periods of Modesto's development. This is a multi-year project.

**Develop a list of high-priority resources and pursue landmark status.** Modesto's historic resources survey, prepared in the 1990s by Carey & Co., has been used as a starting point for preservation efforts. The survey was performed in-depth on a few properties known to have significance in addition to architectural qualities, but most of the survey was limited to architecture. In the past, the historic resources survey served to promote designation of potential historic resources for landmark status by the Commission. This is a multi-year project.

**IV. PURPOSE OF THE ANNUAL REPORT**

This annual report is prepared in compliance with Article XI, Section 1104, of the City Charter, and with Modesto Municipal Code Section 9-10-03(d) which require a report of the Commission's activities be prepared and submitted to the City Council annually. Reporting shall be made on a fiscal year basis and shall be submitted to Council on or before September 1.
RESOLUTION APPROVING THE AWARD OF BID AND SERVICE AGREEMENT FOR LANDSCAPE MAINTENANCE, WEED ABATEMENT AND TRASH REMOVAL SERVICES TO GROVER LANDSCAPE SERVICES INC, MODESTO CA, FOR A TWO YEAR AGREEMENT WITH THREE ONE-YEAR EXTENSION OPTIONS FOR AN ESTIMATED ANNUAL COST NOT TO EXCEED $155,000 AND A TOTAL AMOUNT NOT TO EXCEED $853,000 OVER FIVE YEARS, AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE AGREEMENT

WHEREAS, retention basins are utilized to collect water through a sequence of pipes which feed water into detentions basins, and

WHEREAS, detention basins are utilized to remove storm water through pump stations to open waterways, MID canal, creek or river, and

WHEREAS, the need to maintain retention and detention basins is important in order to allow water to properly flow or evaporate in order to mitigate flood danger, and

WHEREAS, overgrown basins could lead to a fire hazard, and

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase of landscape maintenance, weed abatement and trash removal services, and

WHEREAS, prospective bidders were notified online of the bid opportunity, and

WHEREAS, fourteen companies chose to download the RFB document, and bids were formally opened in the City Clerk’s office. Four companies chose to respond, two of them being a local vendor and three companies responding provided a responsive and responsible bid, and

WHEREAS, based on providing the lowest responsive and responsible bid, City staff recommends the award of bid and agreement for landscape maintenance, weed
abatement and trash removal services to Grover Landscape Services Inc, Modesto CA for
an estimated annual cost of $155,000 and not to exceed $853,000 over five (5) years, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all
purchases, which meet or exceed $50,000 for material, equipment or contractual services
to follow formal bid procedures. The award of RFB No. 1718-45 and agreement for
landscape maintenance, weed abatement and trash removal services to Grover Landscape
conforms to the Modesto Municipal Code because the City complied with the formal bid
procedures and was the lowest responsive and responsible bidder.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto
that it hereby approves the award of bid and agreement for landscape maintenance, weed
abatement and trash removal services for the Utilities Department, Storm Water
collections and Sewer collections Divisions, to Grover Landscape Services Inc., Modesto
CA for a two (2) year agreement with three (3) one-year extension options at the sole
discretion of the City, for an estimated annual cost of $155,000, and not to exceed
$853,000 over five (5) years.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby
authorized to execute the agreement, in a form approved by the City Attorney.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 7th day of August, 2019, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Grewal, was upon roll call carried and the resolution adopted by the following vote:

AYES:  Councilmembers:  Ah You, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES:  Councilmembers:  None

ABSENT:  Councilmembers:  None

ATTEST:  

((SEAL)

APPROVED AS TO FORM:  

By:  

ADAM U. LINDGREN, City Attorney
RESOLUTION APPROVING THE AWARD OF BID AND PURCHASE AGREEMENT FOR VARIABLE FREQUENCY DRIVE UNITS TO WILLIE ELECTRIC SUPPLY COMPANY, MODESTO, CA, FOR A TWO-YEAR AGREEMENT WITH THREE ONE-YEAR EXTENSION OPTIONS, FOR AN ESTIMATED ANNUAL AMOUNT NOT TO EXCEED $189,334 AND A TOTAL AMOUNT NOT TO EXCEED $946,670 OVER FIVE YEARS, AND AUTHORIZING THE PURCHASING MANAGER, OR HER DESIGNEE, TO EXECUTE THE PURCHASING AGREEMENT

WHEREAS, the Utilities Department, Water and Wastewater Divisions need to purchase Variable Frequency Drive (VFD) units in order to stabilize water pressure and wastewater flows in the City’s water and wastewater systems, and

WHEREAS, the Water Division has approximately one hundred twenty-five VFD’s, and

WHEREAS, the Wastewater Division has approximately ninety-seven VFD’s, and

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase variable frequency drive units throughout the city, and

WHEREAS, on January 9, 2019, the Purchasing Division issued RFB No. 1718-60RB for the purchase of variable frequency drive units to eleven prospective bidders, and posted the RFB on the City’s website, and

WHEREAS, bids were formally opened in the City Clerk’s Office. Seven companies chose to respond and six provided responsive and responsible bids. Four local vendor responded, and
WHEREAS, based on providing the lowest responsive and responsible bids, City staff recommends the award of bid for the purchase of variable frequency drive units to Wille Electric, Modesto, CA, for a two (2) year agreement with three (3) one year extension options, for an estimated annual cost not to exceed $189,334 and total amount not to exceed $946,670 over five years, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid for the purchase of variable frequency drive units to Wille Electric, Modesto, CA, conforms to the Modesto Municipal Code, and

WHEREAS, due to higher cost of materials, addition of Tertiary Phase 2, and addition of well sites, staff requests an estimated annual total of $189,334 for this agreement.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the award of bid and agreement for the purchase of variable frequency drive units for the Water and Wastewater Divisions to Wille Electric, Modesto, CA, for a two year agreement with three one-year extension options for an estimated annual cost not to exceed $189,334 and a total amount not to exceed $946,670 over five years.

BE IT FURTHER RESOLVED, that the Purchasing Manager, or her designee, is hereby authorized to issue the purchasing agreement.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 7th day of August, 2019, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Grewal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(STEPHANIE LOPEZ, City Clerk)

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
RESOLUTION APPROVING THE AWARD OF BID AND PURCHASING AGREEMENTS FOR SEWER & STORM DRAINAGE PIPE & FITTINGS TO PACE SUPPLY CORPORATION, STOCKTON, CA, R&B COMPANY, MANTECA, CA AND PIRANHA PIPE & PRECAST, CHOWCHILLA, CA FOR A TWO-YEAR AGREEMENT WITH THREE ONE-YEAR EXTENSION OPTIONS FOR AN ESTIMATED ANNUAL COST NOT TO EXCEED $414,331, $158,332, AND $118,690, RESPECTIVELY, AND AUTHORIZING THE DIRECTOR OF FINANCE, OR HER DESIGNEE, TO ADJUST THE FINANCIAL AMOUNTS BETWEEN THE THREE PROVIDERS WITHOUT EXCEEDING THE ESTIMATED COMBINED ANNUAL COST OF $691,353 AND A TOTAL COMBINED COST NOT TO EXCEED $3,802,442 OVER FIVE YEARS FOR ALL VENDORS AND AUTHORIZING THE PURCHASING MANAGER, OR HER DESIGNEE, TO EXECUTE THE PURCHASE AGREEMENTS

WHEREAS, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase of circle clamps, gaskets, pipe couplings and tapping sleeves, and

WHEREAS, the Purchasing Division issued RFB No. 1819-04 for the purchase of sewer & storm drainage pipe & fittings to twenty-one prospective bidders, and posted the RFB on the City’s website, and

WHEREAS, bids were formally opened in the City Clerk’s Office. Three companies chose to respond, none of which were local companies, and

WHEREAS, all four companies responding provided responsive and responsible bids, and

WHEREAS, based on providing lowest responsive and responsible bids, City staff recommends the award of bids for the purchase of sewer & storm drainage pipe & fittings to Pace Supply Corp., Stockton, CA, R&B Company, Manteca CA and Piranha Pipe & Precast, Chowchilla, CA for a two (2) year agreement with three (3) one-year extension options at the sole discretion of the City, for an estimated annual cost not to
exceed $414,331, $158,332, and $118,690, respectively, and an estimated combined cost not to exceed $3,802,442 over five (5) years, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bids for the purchase of sewer & storm drainage pipe and fittings to Pace Supply Corp., Stockton, CA, R&B Company, Manteca CA, and Piranha Pipe & Precast, Chowchilla CA, conforms to Modesto Municipal Code 8-3.203.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bids award of bids for the Wastewater Division for the purchase of sewer & storm drainage pipe & fittings to Pace Supply Corp., Stockton, CA, R&B Company, Manteca CA and Piranha Pipe & Precast, Chowchilla, CA for a two (2) year agreement with three (3) one-year extension options at the sole discretion of the City, for an estimated annual cost not to exceed $414,331, $158,332, and $118,690, respectively, and an estimated combined cost not to exceed $3,802,442 over five (5) years.

BE IT FURTHER RESOLVED the Finance Director, or her designee, is hereby authorized to adjust the financial amounts between all three providers, without exceeding the estimated combined annual cost of $691,353.

BE IT FURTHER RESOLVED the Purchasing Manager, or her designee, is hereby authorized to execute the purchasing agreements.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 7th day of August, 2019, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Grewal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: _______________________

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _______________________

ADAM U. LINDGREN, City Attorney
MODESTO CITY COUNCIL
RESOLUTION NO. 2019-358

RESOLUTION APPROVING REVISIONS TO COUNCIL POLICY 2.009, “INJURY AND ILLNESS PREVENTION PROGRAM,” TO UPDATE REGULATORY REFERENCES AND DESIGNATE RESPONSIBILITY FOR THE PROGRAM TO THE CITY MANAGER, OR DESIGNEE

WHEREAS, the City of Modesto wishes to ensure the safest possible work place for our employees and to comply with all applicable safety regulations; and

WHEREAS no function of the City of Modesto is so critical as to require a compromise of safety, and

WHEREAS, by Resolution No. 2013-204, Council adopted an Injury and Illness Prevention Program (IIPP) as Council Policy 2.009, and as required by Title 8, Section 3203 of the California Code of Regulations on June 4, 2013, and

WHEREAS, it is necessary to periodically review and update the IIPP to ensure that program information is current and aligned with the City’s organizational structure, goals, and strategies.

NOW, THEREFORE, BE IT RESOLVED that the City Council of Modesto hereby approves revisions to Council Policy 2.009, “Injury and Illness Prevention Program,” to reflect the most current regulatory references.

BE IT FURTHER RESOLVED that the City Manager, or designee, is hereby designated as the responsible person for this program.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 7th day of August, 2019, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Grewal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: ____________________________

STEFHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ____________________________

ADAM U. LINDGREN, City Attorney
RESOLUTION APPROVING AN AGREEMENT WITH WINDMILL SEPTIC, LLC, RIPON, CA, FOR PORTABLE TOILET RENTALS AND SERVICES AT THE MODESTO OUTDOOR EMERGENCY SHELTER THROUGH DECEMBER 31, 2019 FOR A TOTAL AMOUNT NOT TO EXCEED $90,000 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City established a temporary outdoor shelter underneath the 9th Street Bridge known as the Modesto Outdoor Emergency Shelter (MOES) to accommodate the growing number of homeless individuals, and

WHEREAS, the City issued informal bids for portable toilet rentals and services to keep the encampment safe and sanitary for a period not to exceed seven months, and

WHEREAS, Windmill Septic, LLC, provided the lowest responsible bid and the Finance Purchasing Division issued a purchase agreement, not to exceed $50,000, to cover MOES expenses through October 31, 2019, and

WHEREAS, at three months into service, staff has increased the amount of portable toilets and service levels to keep pace with the influx of homeless individuals at MOES, and

WHEREAS, staff also expects the need for portable toilets through the end of December, and

WHEREAS, the current purchase order does not meet these needs, and

WHEREAS, the City and Windmill Septic, LLC, desire to enter into a new purchase agreement for portable toilets and services for MOES through December 31, 2019 for a total not to exceed $90,000, and
WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid, and

WHEREAS, exceptions to the formal bidding process are granted in MMC 8-3.204(c) where the Purchasing Manager, in his or her discretion, determines that calling for bids on a competitive basis as set forth in Section 8-3.203 is undesirable due to exigent circumstances, and

WHEREAS, MMC 8-3.204(d) provides that a purchase may be exempt where the Purchasing Manager, in her discretion, determines that a process other than the formal bid procedure set forth in Section 8-3.203 will result in procurement for the City at the lowest possible cost commensurate with the desired quality, and

WHEREAS, Windmill Septic is exempt from the formal bidding procedure in accordance with Modesto Municipal Code 8-3.204(d) since the informal bidding procedure, of which Windmill Septic provided the lowest bid, had five responsive and responsible bids and was recently solicited, and

WHEREAS, Windmill Septic is exempt from the formal bidding procedure in accordance with Modesto Municipal Code 8-3.204(c) since a formal bidding process would require six months to process, at which point, the purchase order in place would be fully exhausted.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement with Windmill Septic, LLC, Ripon, CA, for portable toilet rentals and services at the Modesto Outdoor Emergency Shelter through December 31, 2019 for a total amount not to exceed $90,000.
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 7th day of August, 2019, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Grewal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

(STEPHANIE LOPEZ, City Clerk)

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
RESOLUTION APPROVING AN EIGHTH AMENDMENT TO THE AGREEMENT WITH SCS ENGINEERS, INC., MODESTO, CA, TO ANALYZE RIVER FLOWS AND PRODUCE A NO-RISE CERTIFICATION FOR THE CARPENTER ROAD LANDFILL PROJECT IN ACCORDANCE WITH FEMA REGULATIONS, AND THE CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD COMPLIANCE ABATEMENT ORDER R5-2015-0700, IN AN AMOUNT NOT TO EXCEED $9,807 THROUGH DECEMBER 31, 2019 OR UNTIL THE PROJECT IS COMPLETE, FOR A REVISED TOTAL AMOUNT NOT TO EXCEED $1,506,156, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT

WHEREAS, the City of Modesto owned and operated the Carpenter Road Landfill from 1956 to 1968, and the landfill includes fill sites on both the east and west sides of Carpenter Road, along the Tuolumne River, and

WHEREAS, the City is required by State law to perform post closure landfill maintenance, monitoring, and reporting for the landfill site, and

WHEREAS, in December 2005, it appeared that methane gas levels at the landfill’s Northern boundary exceeded the maximum limits, and the California Integrated Waste Management Board (CIWMB) required the City to determine the cause and develop a Mitigation and Monitoring Plan, and

WHEREAS, the Central Valley Regional Water Quality Control Board (CVRWQCB) subsequently required the City to assess the potential for groundwater impacts, and

WHEREAS, on June 12, 2007 by Resolution No. 2007-341, Council authorized a Professional Services Agreement with SCS Engineers, Inc. in an amount not to exceed $299,500 to assess the landfill and recommend corrective action, and...
WHEREAS, after the initial site assessment, Resolution No. 2007-728 authorized a no-cost Letter Amendment to shift the focus of the work to installation of gas probes, design and installation of groundwater monitoring wells, and ongoing monitoring and reporting of methane gas and groundwater, and

WHEREAS, the assessment determined that migration of methane gas past the boundaries of the landfill was not a problem, but that a groundwater monitoring event determined that the landfill had experienced a “release” that could potentially have affected groundwater, and

WHEREAS, an engineering feasibility study had to be completed and the CVRWQCB required the City to submit a Corrective Action Plan (CAP), and

WHEREAS, in May 2009 by Resolution 2009-199, Council approved a Second Amendment to the Agreement with SCS Engineers, Inc. to further evaluate the site, develop the CAP, and provide ongoing monitoring and reporting services in an amount not to exceed $242,000, and

WHEREAS, in November 2010, after conducting 12 hydro punch borings to sample groundwater and analyzing them for Volatile Organic Compounds (VOC’s), SCS submitted the CAP to the CVRWQCB proposing to use an injection of a hydrogen releasing compound to remediate any groundwater impacts, and

WHEREAS, subsequently, the VOC concentrations began to consistently decline, and City staff and SCS Engineers, Inc. determined that the proposed CAP needed to be re-evaluated, and

WHEREAS, in August 2013 by Resolution No. 2013-277, Council approved a Third Amendment to the Agreement with SCS Engineers, Inc. for ongoing monitoring,
lab analysis, compliance reports, corrective action monitoring and maintenance, and re-evaluating and implementing the CAP in a cost not to exceed $290,500, and

WHEREAS, in October 2014, a revised CAP and post closure maintenance plan was submitted to the CVRWQCB and in March 2015, the CVRWQCB issued the City a Cleanup and Abatement Order (CAO R5-2015-0700) requiring the City to clean close the Eastern Fill, move all the waste to the Western Fill, install a final cover atop the Western Fill, and construct a storm water retention basin, and

WHEREAS, in April 2015, SCS Engineers, Inc. submitted the plans and drawings to address the CAO and it was conditionally approved by the CVRWQCB in July 2016, with mitigation to be completed by October 2017, and

WHEREAS, the Central Valley experienced a significant wet winter at the end of 2016 and into the beginning of 2017, with the Tuolumne River above flood stage and not expected to completely recede until September or mid-October 2017, and

WHEREAS, the City petitioned the CVRWQCB in June 2017 for an extension to the CAO due to the groundwater elevation being higher than that of the waste to be excavated, and

WHEREAS, in mid-July the CVRWQCB approved the City’s request to postpone the execution of the Clean Closure Work Plan with the condition that the approved background soil assessment would be completed and submitted to the water board by October 20, 2017 and the Final Construction and Completion Report for the CAO would be submitted no later than October 31, 2018, and
WHEREAS, in September 2017, by Resolution No. 2017-341, Council approved a Fourth Amendment to the Agreement with SCS Engineers, Inc. to complete these tasks and carry the project through December 31, 2018 in a cost not to exceed $92,349, and

WHEREAS, in July 2018 the City opened the bid process for the Clean Closure work, and in August 2018, awarded the bid to Pacific States Environmental Contractors for a total of $3,776,598 by Council Resolution No. 2018-345, and

WHEREAS, in addition, a Fifth Amendment to the SCS Agreement in an amount not to exceed $520,000 was approved by Council Resolution No. 2018-348 for environmental and design support services to the Clean Closure work, and

WHEREAS, Resolution No. 2018-348 also authorized the City Manager to execute any amendments up to a cumulative amount of 10% of the Fifth Amendment, or $52,000, and

WHEREAS, in September 2018, it was determined that the City needed to have a No-Rise Certification in order to be in compliance with Federal Emergency Management Agency (FEMA) Regulation, and

WHEREAS, the City requested that SCS Engineers perform this analysis but since nothing was identified in their agreements for this type of work, in December 2018 a Sixth Amendment to the SCS Agreement in an amount not to exceed $44,036 was approved under the authority of the City Manager, for SCS to hire HDR Engineering to produce the model runs, analysis, and No-Rise Certification needed to be in compliance with FEMA, and

WHEREAS, the last six months HDR Engineering has been diligently working with SCS Engineers and the City to help the City achieve a No-Rise Certification and has
recently determined that with some slight design modifications and their site review of the vegetation layout, that the No-Rise Certification can be met, and

WHEREAS, with the number of analytical models that needed to be run and the slight design modifications that needed to be made, the Sixth Amendment fell short by $17,771, and in order to keep the project moving to meet construction deadlines, the City Manager executed a Seventh Amendment to the SCS Agreement, under his authority in the Fifth Amendment by Resolution No. 218-348, for the balance of the cumulative total of 10%, which was $7,964, and

WHEREAS, the previous amount was approved in the Sixth Amendment in the amount of $44,033, and the City Manager total delegated authority was $52,000, and

WHEREAS, this Eighth Amendment is for the remaining $9,807 of the $17,771 needed to complete the No-Rise Certification, and

WHEREAS, it is critical that this amendment be processed for several reasons: 1) the health and safety of the neighborhood in and around the landfill as the longer the project is delayed, the longer the waste sits in a non-line landfill without groundwater protection; 2) the contract was awarded almost a year ago and the contractor has been in a holding pattern; 3) there are time limitations to when construction can occur due to wildlife cycles; and 4) if the project does not get started as mandated by the CVRWQCB, the City will be subjected to fines of up to $10,000 per day, and

WHEREAS, funds are collected in the garbage rate for this mitigation project, estimated to cost $4.6 million and to date the Carpenter Road Landfill Fund (Fund 4893-56016) has approximately $5 million.
NOW THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Eighth Amendment to the Agreement with SCS Engineers, Inc. to analyze river flows and produce a No-Rise Certification for the Carpenter Road Landfill Project in accordance with FEMA Regulations, and the Central Valley Regional Water Quality Control Board Compliance Abatement Order R5-2015-0700, in an amount not to exceed $9,807 through December 31, 2019 or until the project is complete, for a revised total amount not to exceed $1,506,156.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Eighth Amendment to the Agreement, in a form approved by the City Attorney.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 7th day of August, 2019, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Grewal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
RESOLUTION AUTHORIZING THE REPAYMENT OF COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS TO HUD EXPENDED ON INELIGIBLE ACTIVITIES IN THE AMOUNT OF $154,160, REALLOCATING $36,586 FROM HOME FUNDING FOR HOME ADMINISTRATION ELIGIBLE EXPENSES, AND $1,570 FROM NSP2 FUNDING FOR NSP2 ADMINISTRATION ELIGIBLE EXPENSES AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE RELATED DOCUMENTS

WHEREAS, as a U.S. Department of Housing and Urban Development (HUD) entitlement community, the City receives Community Development Block Grant (CDBG), Home Investment Partnerships (HOME), and Emergency Solutions Grant (ESG) funds, annually, and

WHEREAS, in September 2017, the Office of Inspector General (OIG) reached out to the City of Modesto to notify staff that the OIG would perform an audit to ensure that the City used CDBG funds in accordance with HUD requirements, focusing on the City’s Housing Rehabilitation Program, and

WHEREAS, from October 2017 through April 2018, the OIG was at the City reviewing and auditing funding and projects that were a part of the Housing Rehabilitation Program, and

WHEREAS, the OIG reviewed projects and documentation from July 2015 through September 2017, and

WHEREAS, in July 2018, the OIG finalized and published their audit report, and

WHEREAS, the OIG made sixteen findings totaling $1,686,739 in unsupported funds and $257,737 in ineligible funds for a total of $1,944,332, and

WHEREAS, the OIG directed the City to work directly with HUD’s San Francisco Office of Community Planning and Development to resolve the findings of the audit, and
WHEREAS, The OIG directed the City to:

1. Support that its use of more than $1.6 million in CDBG funds met program requirements or repay the program from non-Federal funds

2. Repay the program $257,737 for duplicate costs from non-Federal funds

3. Implement policies and procedures to ensure that CDBG funds are used in accordance with program requirements

4. Provide training to its staff to ensure sufficient knowledge of CDBG program requirements, and

5. Implement policies and procedures to ensure that it includes all of its CDBG recipients in its monitoring plan and that it selects objective samples, and

WHEREAS, staff has worked closely with HUD over the last year, and submitted documentation and support for the OIG findings, and

WHEREAS, staff has updated the policies to ensure they meet both HUD and City standards, implemented procedures and checklists to ensure proper documentation is completed before any project is approved, agreement is signed, or funding is expended, and provided ongoing training for staff to ensure sufficient knowledge of CDBG program requirements, and

WHEREAS, The City provided supporting documentation for all of reported OIG findings, and

WHEREAS, HUD reviewed all of the information and submitted it to the OIG for approval, and

WHEREAS, as a result, the OIG agreed that the City would not have to repay $1,790,316 of the total $1,944,332 that was identified in the report, and
WHEREAS, eleven findings are closed, and five findings remain open and require partial repayment in order to close the findings and audit, and

WHEREAS, HUD and the OIG identified $154,160 that would have to be repaid from non-federal funds to the CDBG program, $36,586 reallocated from HOME funding for HOME Administration eligible expenses, and $1,570 reallocated from NSP2 funding for NSP2 Administration eligible expenses, and

WHEREAS, a substantial portion of this funding needs to be repaid due to staff charging their time to the incorrect funding source, and

WHEREAS, to correct this issue moving forward, the division has worked with finance and budget to move all staff to a non-grant funded cost center, and now charge out the staff time according to the project and grant they are working on, and

WHEREAS, the repayment of funds is required to be made from a non-federal source, and will be repaid from 2019-2020 Community and Economic Development Department savings, and

WHEREAS, the funding that is returned to HUD will be added to the City CDBG account, and can be used on future CDBG eligible projects, and

WHEREAS, HUD has requested that the audit be completed by August 1, 2019, and

WHEREAS, Staff was able to address two findings and wire a repayment under City Manager authority totaling $28,243.34, $25,169.84 repaid from non-federal funds, and $3,073.50 reallocated from other HUD grant funds, and

WHEREAS, because the remainder of the findings exceeded $50,000 to return to HUD, HUD has granted an extension until August 8, 2019 for the closeout.
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizing the repayment of Community Development Block Grant funds to HUD expended on ineligible activities in the amount of $154,160, reallocating $36,586 from HOME funding for HOME Administration eligible expenses, and $1,570 from NSP2 funding for NSP2 Administration eligible expenses.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the City Manager or his designee, is hereby authorized to execute related documents.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 7th day of August, 2019, by Councilmember Ah You, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]

ADAM U. LINDGREN, City Attorney
RESOLUTION AMENDING THE FISCAL YEAR 2019-2020 ANNUAL OPERATING AND MULTI-YEAR PROJECT BUDGETS AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE, TO TAKE THE NECESSARY STEPS TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION.

WHEREAS, as a U.S. Department of Housing and Urban Development (HUD) entitlement community, the City is required to develop an Annual Action Plan (AAP) that describes proposed activities funded with Community Development Block Grant (CDBG), Home Investment Partnerships (HOME), and Emergency Solutions Grant (ESG) funds, and

WHEREAS, in September 2017, the Office of Inspector General (OIG) reached out to the City of Modesto to notify staff that the OIG would be auditing to ensure that the City used CDBG funds in accordance with HUD requirements, focusing on the City’s Housing Rehabilitation Program, and

WHEREAS, from October 2017 through April 2018, the OIG was at the City reviewing and auditing funding and projects that were a part of the Housing Rehabilitation Program, and

WHEREAS, during the audit, they reviewed projects and documentation from July 2015 through September 2017, and

WHEREAS, HUD and the OIG identified $154,160 that would have to be repaid to the CDBG program, and

WHEREAS, HUD’s preference is that the City repay the disallowed costs from a non-federal source.
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes amending the Fiscal Year 2019-2020 Annual Operating and Multi-Year Project budgets as shown in Exhibit A, which is attached hereto and incorporated by reference herein.

BE IT FURTHER RESOLVED by the Council of the City of Modesto authorize City Manager or his designee, to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 7th day of August, 2019, by Councilmember Ah You, who moved its adoption, which motion being duly seconded by Councilmember Zoslocki, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: ADAM U. LINDGREN, City Attorney
Exhibit A

- Amend the Community Development Administration operating budget (0100-14210) for fiscal year 2019-20, to decrease the Salaries and Benefits budget by $154,161, and to increase the Discretionary Expenses budget (0100-14210) by $154,161, to reflect the transfer of ineligible expenses from CDBG Rehab Admin and RLF Rehab Direct Loans.
- Amend the Community Development HUD Administration operating budgets for fiscal year 2019-20 (1130-14010-54500) as follows to allow for the transfer of expenses from CDBG Rehab Admin (1130-14020):
  o Activity 1170 – Increase budget by $11,808
  o Activity 1224 – Increase budget by $889
  o Activity 1255 – Increase budget by $17,561
- Amend the Community Development HOME Administration operating budgets (1170-14030-54500) as follows to allow for transfer of expenses from CDBG Rehab Admin (1130-14020):
  o Activity 1317 – Increase budget by $36,587
MODESTO CITY COUNCIL
RESOLUTION NO. 2019-363

RESOLUTION CALLING A SPECIAL ELECTION REGARDING PROPOSED CHANGES TO RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX FOR CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2016-2 (THE VINTAGE)

WHEREAS, on January 26, 2016, the City Council of the City of Modesto (“the City”) adopted Resolution No. 2016-21 (the “Resolution of Intention”) declaring its intention to establish City of Modesto Community Facilities District No. 2016-2 (The Vintage) (“CFD No. 2016-2), pursuant to the Mello-Roos Community Facilities Act of 1982, Government Code Sections 53311 et seq. (the “Act”), and

WHEREAS, on March 8, 2016, the City Council adopted Resolution No. 2016-95 (the “Resolution of Formation”) declaring the formation of CFD No. 2016-2 for the purpose of financing all costs associated with the creation of CFD No. 2016-2, the determination of the amount of special taxes to be levied and costs otherwise incurred in order to carry out the authorized purposes of the community facilities district and administering the community facilities district and to pay the costs of the services listed therein, and

WHEREAS, by adopting the Resolution of Formation, the City Council declared its intention, subject to the approval of the qualified electors of the proposed community facilities district, to levy the proposed special taxes at the rates set forth in the Rate and Method of Apportionment of Special Tax (the “Original RMA”) attached thereto as Attachment A, and
WHEREAS, on March 8, 2016, the City Council adopted Resolution No. 2016-97, declaring the results of the election pertaining to CFD No. 2016-2, and determining that the qualified electors had approved the Original RMA, and

WHEREAS, it has been determined that it is necessary and prudent to adjust the maximum special taxes set forth in the Original RMA, and

WHEREAS, on June 11, 2019, this City Council adopted Resolution No. 2019-259, (the "Resolution of Consideration"), by which this City Council declared its intention to modify the rate and method of apportionment of the special tax for CFD No. 2016-2, as set forth in the Amended and Restated RMA, which was attached to the Resolution of Consideration as Exhibit A, and

WHEREAS, by its Resolution of Consideration, this City Council scheduled a public hearing on the matter of the modification of the rate and method of apportionment of the special tax for CFD No. 2016-2 for August 7, 2019, and directed the publication of a notice of the hearing, and

WHEREAS, the required notice of hearing was published in the manner required by the Act, and

WHEREAS, the public hearing having been conducted and closed on this date, this City Council hereby finds and determines that a majority protest was not made at the hearing, as provided by Section 53338 of the Mello-Roos Act, and

WHEREAS, it has been established that there are no registered voters residing within the boundary of CFD No. 2016-2, and

WHEREAS, on the basis of the Certificate and Waiver of Certain Election Procedures With Respect to Landowner Election" (the "Certificate and Waiver"), a
separate copy of which has been executed on behalf of each landowner owning property within boundaries of CFD No. 2016-2 (each a "Landowner"), filed with the City Clerk and presented at this meeting, this City Council hereby further finds and determines as follows:

A) each of the Landowners has consented to the conduct of the special mailed-ballot election on this date and has waived the requirements to

(1) prepare and distribute an impartial analysis,
(2) invite arguments in favor of or against the ballot measure,
(3) publish a notice of the election and
(4) mail the special election ballot a prescribed number of days prior to the election; and

B) each of the Landowners has agreed to accept personal service of the ballot or service by mail; and

WHEREAS, this City Council, by this Resolution, wishes to call the special election to be held on this date immediately upon adoption of this Resolution, and to direct that, forthwith upon receiving an executed and completed ballot from each of the Landowners, the City Clerk shall close the election and declare the results to this City Council.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Modesto hereby finds, determines and resolves the foregoing recitals are true and correct, and this City Council hereby expressly so finds and determines that pursuant to Sections 53326 and 53338 of the Act, this City Council hereby calls a special
mailed-ballot election, to be held and conducted forthwith upon adoption of this Resolution, and sets this same date as the election date.

BE IT FURTHER RESOLVED that the measure to be submitted to the Landowners, as the qualified electors of CFD No. 2016-2, shall be as set forth in Exhibit A, attached hereto and by this reference incorporated herein. The action of the City Clerk in providing the special election ballot to the Landowners by personal service or mail is hereby ratified.

BE IT FURTHER RESOLVED The City Clerk is hereby directed, forthwith upon receiving an executed and completed ballot from each of the Landowners, to close the election and declare the results to this City Council.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 7th day of August, 2019, by Councilmember Madrigal, who moved its adoption, which motion being duly seconded by Councilmember Kenoyer, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: [Signature]

STEFANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: [Signature]
ADAM U. LINDGREN, City Attorney
APPENDIX A
CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2016-2
(VINTAGE MAINTENANCE)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

A Special Tax applicable to each Assessor’s Parcel in the City of Modesto Community Facilities District No. 2016-2 (Vintage Maintenance) shall be levied and collected according to the tax liability determined by the Administrator through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in CFD No. 2016-2, unless exempted by law or by the provisions of Section F below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to the CFD, unless a separate Rate and Method of Apportionment of Special Tax is adopted for the annexation area.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

“Acre” or “Acreage” means the land area of an Assessor’s Parcel as shown on an Assessor’s Parcel Map, or if the land area is not shown on an Assessor’s Parcel Map, the land area shown on the applicable Final Map or other recorded County parcel map.

“Act” means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5 (commencing with Section 53311), Division 2, of Title 5 of the Government Code of the State of California.

“Administrative Expenses” means any or all of the following: expenses incurred by the City in carrying out its duties with respect to CFD No. 2016-2, including, but not limited to, levying and collecting the Special Tax; the fees and expenses of legal counsel; charges levied by the County Auditor’s Office, Tax Collector’s Office, and/or Treasurer’s Office; costs related to property owner inquiries regarding the Special Tax; and all other costs and expenses of the City in any way related to the establishment or administration of the CFD.

“Administrator” means the person or firm designated by the City to administer the Special Tax according to this RMA.

“Assessor’s Parcel” or “Parcel” means a lot or parcel shown on an Assessor’s Parcel Map with an assigned Assessor’s Parcel Number.

“Assessor’s Parcel Map” means an official map of the County Assessor designating parcels by Assessor’s Parcel Number.
“Assessor’s Parcel Number” or “APN” means a unique number assigned to an Assessor’s Parcel by the County Assessor for purposes of identifying a property.

“Authorized Services” means the public services authorized to be funded by the CFD as set forth in the documents adopted by the City Council when the CFD was formed.

“CFD” or “CFD No. 2016-2” means the City of Modesto Community Facilities District No. 2016-2 (Vintage Maintenance).

“CFD Formation” means the date on which the Resolution of Formation to form CFD No. 2016-2 was adopted by the City Council.

“City” means the City of Modesto.

“City Council” means the City Council of the City of Modesto, acting as the legislative body of CFD No. 2016-2.

“Commercial Property” means all Parcels of Taxable Property for which a building permit has been or may be issued for construction of a commercial building, as determined by the City.

“County” means the County of Stanislaus.

“Developed Property” means, in any Fiscal Year, the following:

- for Single Family Residential Property, all Parcels of Taxable Property for which a Final Map was recorded prior to June 30 of the preceding Fiscal Year;

- for Multi-Family Property, all Parcels of Taxable Property for which a building permit for new construction of a residential structure was issued prior to June 30 of the preceding Fiscal Year; and

- for Commercial Property, all Parcels of Taxable Property for which a building permit for construction of a commercial structure was issued prior to June 30 of the preceding Fiscal Year.

“Escalation Factor” means, in any Fiscal Year, the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%).

“Final Map” means a final map approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410, et seq.) that creates individual lots on which a building permit can be issued for construction of residential units without further subdivision of the lots.

“Fiscal Year” means the period starting on July 1 and ending on the following June 30.
“Land Use Class” means one of the three mutually-exclusive land use classes identified in Table 1 in Section C below and defined in this Section A.

“Maximum Special Tax” means the maximum special tax, determined in accordance with Section C, that can be levied in any Fiscal Year.

“Multi-Family Property” means all Parcels of Taxable Property for which a building permit has been or may be issued for construction of a residential structure consisting of two or more residential units that share common walls, including but not limited to, townhomes, condominiums, duplexes, triplexes, fourplexes, and apartment units.

“Proportionately” means, for Developed Property, that the ratio of the actual Special Tax levied in any Fiscal Year to the Maximum Special Tax authorized to be levied in that Fiscal Year is equal for all Assessor’s Parcels of Taxable Property that is Developed Property. For Undeveloped Property, “Proportionately” means that the ratio of the actual Special Tax to the Maximum Special Tax is equal for all Assessor’s Parcels of Taxable Property that is Undeveloped Property. For Taxable Public Property, “Proportionately” means that the ratio of the actual Special Tax to the Maximum Special Tax is equal for all Assessor’s Parcels of Taxable Public Property.

“Public Property” means, in any Fiscal Year: (i) all Parcels within the boundaries of the CFD that are owned by or irrevocably offered for dedication to the federal government, the State of California, the City or any other public agency; provided, however, that any property leased by a public agency to a private entity and subject to taxation under Section 53340.1 of the Act (as such section may be amended or replaced) shall be taxed and classified in accordance with its use; and (ii) all Parcels within the boundaries of the CFD that are encumbered by an unmanned utility easement making impractical its utilization for other than the purpose set forth in the easement.

“RMA” means this Rate and Method of Apportionment of Special Tax.

“SFR Lot” means an individual numbered lot which is in its final configuration and for which a building permit may be issued for a single family residential unit.

“Single Family Residential Property” means, in any Fiscal Year, all Parcels of Taxable Property for which a building permit has been or may be issued for construction of a residential structure on an SFR Lot.

“Special Tax” means a special tax levied in any Fiscal Year to pay the Special Tax Requirement, as defined below.

“Special Tax Requirement” means the amount of revenue needed in any Fiscal Year to pay for: (i) Authorized Services, (ii) establishment of reserves, (iii) Administrative Expenses, and (iv) amounts needed to cure any delinquencies in the payment of Special Taxes which have occurred in prior Fiscal Years.
"Taxable Property" means all Assessor's Parcels within the boundaries of the CFD that are not exempt from the Special Tax pursuant to law or Section F below.

"Taxable Public Property" means, in any Fiscal Year, all Parcels of Public Property within the CFD that, (i) based on a tentative map or other development plan, were expected to be Taxable Property and, (ii) based on this expectation, Maximum Special Taxes were assigned to the Parcels in prior Fiscal Years.

"Undeveloped Property" means, in any Fiscal Year, all Parcels of Taxable Property within CFD No. 2016-2 that are not Developed Property.

B. DATA FOR SPECIAL TAX LEVY

Each Fiscal Year, the Administrator shall identify the current Assessor's Parcel Numbers for all Parcels of Taxable Property within the CFD. The Administrator shall also determine: (i) whether each Parcel of Taxable Property is Developed Property or Undeveloped Property, (ii) which Parcels are Commercial Property, Single Family Residential Property, and Multi-Family Property, (iii) the Acreage of each Parcel of Commercial Property and Multi-Family Property, and (iv) the Special Tax Requirement for the then-current Fiscal Year.

In any Fiscal Year, if it is determined that (i) a Final Map or parcel map for a portion of property in the CFD was recorded after the last date upon which the Assessor will incorporate the newly-created Parcels into the then current tax roll, (ii) because of the date the Final Map or parcel map was recorded, the Assessor does not yet recognize the new Parcels created by the Final Map or parcel map, and (iii) one or more of the newly-created Parcels meets the definition of Taxable Property, the Administrator shall calculate the Special Tax for the property affected by recordation of the Final Map or parcel map by determining the Special Taxes that apply separately to each newly-created Parcel, then applying the sum of the individual Special Taxes to the Parcel that was subdivided by recordation of the Final Map or parcel map.

C. MAXIMUM SPECIAL TAXES

Table 1 below identifies the Maximum Special Tax assigned to all Parcels of Taxable Property.
TABLE 1
MAXIMUM SPECIAL TAXES
FISCAL YEAR 2015-16

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* On January 1, 2016 and each January thereafter, the Maximum Special Tax rates shall be adjusted by the Escalation Factor. Each annual adjustment of the Maximum Special Tax shall become effective on the subsequent July 1.

D. METHOD OF LEVY OF SPECIAL TAXES

Each Fiscal Year, the Administrator shall determine the Special Tax Requirement for that Fiscal Year. The Special Tax shall then be levied on all Parcels of Taxable Property as follows:

**Step 1:** The Special Tax shall be levied Proportionately on each Parcel of Developed Property within the CFD up to 100% of the Maximum Special Tax for each Parcel of Taxable Property for such Fiscal Year;

**Step 2:** If additional revenue is needed after Step 1, the Special Tax shall be levied Proportionately on each Assessor’s Parcel of Undeveloped Property that is not Commercial Property within the CFD, up to 100% of the Maximum Special Tax for each Parcel of Taxable Property for such Fiscal Year;

**Step 3:** If additional revenue is needed after applying the first two steps, the Special Tax shall be levied Proportionately on each Assessor’s Parcel of Taxable Public Property, up to 100% of the Maximum Special Tax assigned to each Parcel of Taxable Public Property.

E. COLLECTION OF SPECIAL TAXES

The Special Tax shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that the City may directly bill, collect at a different time or in a different manner, and/or collect delinquent Special Taxes through foreclosure or other available methods. The Special Tax shall be levied and collected in perpetuity unless and
until the City determines that the Special Tax no longer needs to be levied to pay Authorized Services and Administrative Expenses.

F. EXEMPTIONS

Notwithstanding any other provision of this RMA, no Special Tax shall be levied on Parcels of Commercial Property that are Undeveloped Property and Parcels of Public Property, except Taxable Public Property, as defined herein.

G. INTERPRETATION OF SPECIAL TAX FORMULA

The City reserves the right to make minor administrative and technical changes to this document that do not materially affect the rate and method of apportioning Special Taxes. In addition, the interpretation and application of any section of this document shall be left to the City’s discretion. Interpretations may be made by the City by resolution of the City Council for purposes of clarifying any vagueness or ambiguity in this RMA.

H. ENFORCEMENT

All delinquent Special Taxes billed off the County tax roll shall be subject to an immediate 10% penalty plus interest charges of 1.5% as of the first day of the month after the delinquency date and on the first day of each month thereafter. Any such delinquent Special Taxes shall, at the City’s discretion, be placed on the next secured property tax roll. The amount placed on the roll shall include the 10% penalty and the interest charges through the following January 1. This shall not prevent the City from simultaneously pursing the delinquency by an action on a contract of guarantee against a third party who promised to pay the taxes, or from assigning such right of action to the property owner or other appropriate party.
MODESTO CITY COUNCIL
RESOLUTION NO. 2019-364

RESOLUTION DECLARING RESULTS OF LANDOWNER-VOTER ELECTION AND ORDERING CHANGE TO RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX FOR CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2016-2 (THE VINTAGE)

WHEREAS, on March 8, 2016, the City Council adopted Resolution No. 2016-95 (the “Resolution of Formation”) declaring the formation of CFD No. 2016-2 for the purpose of financing all costs associated with the creation of CFD No. 2016-2, the determination of the amount of special taxes to be levied and costs otherwise incurred in order to carry out the authorized purposes of the community facilities district and administering the community facilities district and to pay the costs of the services listed therein, and

WHEREAS, by adopting the Resolution of Formation, the City Council declared its intention, subject to the approval of the qualified electors of the proposed community facilities district, to levy the proposed special taxes at the rates set forth in the Rate and Method of Apportionment of Special Tax (the “Original RMA”) attached thereto as Attachment A; and

WHEREAS, it has been determined that it is necessary and prudent to adjust the maximum special taxes set forth in the Original RMA, and

WHEREAS, on June 11, 2019, this City Council adopted Resolution No. 2019-259, (the "Resolution of Consideration"), by which this City Council declared its intention to modify the rate and method of apportionment of the special tax for CFD No. 2016-2, as set forth in the Amended and Restated RMA, which was attached to the Resolution of Consideration as Exhibit A, and
WHEREAS, by its Resolution of Consideration, this City Council scheduled a public hearing on the matter of the modification of the rate and method of apportionment of the special tax for CFD No. 2016-2 for August 7, 2019, and directed the publication of a notice of the hearing, and

WHEREAS, the public hearing having been conducted and closed on this date in accordance with the Resolution of Consideration, the published notice, and no protests against the proposed changes prescribed by the Resolution of Consideration having been made either orally or in writing, and

WHEREAS, this City Council then adopted its resolution calling a special mailed-ballot landowner-voter election to submit to the owners of the taxable land in CFD No. 2016-2 (the "Landowners"), as the qualified electors of CFD No. 2016-2, the question whether this City Council shall be authorized to modify the rate and method of apportionment of the special tax for CFD No. 2016-2, and

WHEREAS, on the basis of executed copies of a "Certificate and Waiver of Certain Election Procedures With Respect to Landowner Election" submitted by all Landowners owning property within CFD No. 2016-2, and all of which instruments are on file with the City Clerk, the election was scheduled to occur immediately upon adoption of the resolution calling the election and approving the form of ballot, which was attached as Exhibit A to said resolution, and

WHEREAS, the City Clerk has advised this City Council that she has received an executed and completed ballot from all of the Landowners and has therefore closed the election and declared to this City Council that the ballot measure was unanimously approved by the Landowners, and
WHEREAS, this City Council wishes by this Resolution to declare the results of the landowner-voter election and to order the modification of the rate and method of apportionment of the special tax for CFD No. 2016-2 as set forth in the Amended and Restated RMA, which is attached hereto as Exhibit A.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Modesto hereby finds the foregoing recitals are true and correct, and this City Council hereby expressly so finds and determines.

NOW, THEREFORE, BE IT FURTHER RESOLVED that this City Council hereby declares that the measure submitted to the landowner-voter election respecting the proposed modification of the rate and method of apportionment of the special tax for CFD No. 2016-2 has been passed.

NOW, THEREFORE, BE IT FURTHER RESOLVED that in conformity with the provisions of Section 53338 of the Mello-Roos Act, this City Council orders that rate and method of apportionment of the special tax for CFD No. 2016-2 be modified to read as set forth in the Amended and Restated Rate and Method of Apportionment of the Special Tax for CFD No. 2016-2, a copy of which is attached hereto as Exhibit A and by this reference incorporated herein.

NOW, THEREFORE, BE IT FURTHER RESOLVED the City Clerk is hereby authorized and directed to cause the preparation and recordation of a notice of the change represented by Amended and Restated Rate and Method of Apportionment of the Special Tax for CFD No. 2016-2 pursuant to Section 3117.5 of the California Streets and Highways Code, to take all other action necessary to carry out the purpose and intent of this resolution.
The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 7th day of August, 2019, by Councilmember Kenoyer, who moved its adoption, which motion being duly seconded by Councilmember Madrigal, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Ah You, Grewal, Kenoyer, Madrigal, Ridenour, Zoslocki, Mayor Brandvold

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:  

(Seal)

APPROVED AS TO FORM:

By:  

ADAM U. LINDGREN, City Attorney
APPENDIX A
CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2016-2
(VINTAGE MAINTENANCE)

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

A Special Tax applicable to each Assessor’s Parcel in the City of Modesto Community Facilities District No. 2016-2 (Vintage Maintenance) shall be levied and collected according to the tax liability determined by the Administrator through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in CFD No. 2016-2, unless exempted by law or by the provisions of Section F below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to the CFD, unless a separate Rate and Method of Apportionment of Special Tax is adopted for the annexation area.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

“Acre” or “Acreage” means the land area of an Assessor’s Parcel as shown on an Assessor’s Parcel Map, or if the land area is not shown on an Assessor’s Parcel Map, the land area shown on the applicable Final Map or other recorded County parcel map.

“Act” means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5 (commencing with Section 53311), Division 2, of Title 5 of the Government Code of the State of California.

“Administrative Expenses” means any or all of the following: expenses incurred by the City in carrying out its duties with respect to CFD No. 2016-2, including, but not limited to, levying and collecting the Special Tax; the fees and expenses of legal counsel; charges levied by the County Auditor’s Office, Tax Collector’s Office, and/or Treasurer’s Office; costs related to property owner inquiries regarding the Special Tax; and all other costs and expenses of the City in any way related to the establishment or administration of the CFD.

“Administrator” means the person or firm designated by the City to administer the Special Tax according to this RMA.

“Assessor’s Parcel” or “Parcel” means a lot or parcel shown on an Assessor’s Parcel Map with an assigned Assessor’s Parcel Number.

“Assessor’s Parcel Map” means an official map of the County Assessor designating parcels by Assessor’s Parcel Number.
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“County” means the County of Stanislaus.

“Developed Property” means, in any Fiscal Year, the following:

- for Single Family Residential Property, all Parcels of Taxable Property for which a Final Map was recorded prior to June 30 of the preceding Fiscal Year;

- for Multi-Family Property, all Parcels of Taxable Property for which a building permit for new construction of a residential structure was issued prior to June 30 of the preceding Fiscal Year; and

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“Fiscal Year” means the period starting on July 1 and ending on the following June 30.
"Land Use Class" means one of the three mutually-exclusive land use classes identified in Table 1 in Section C below and defined in this Section A.

"Maximum Special Tax" means the maximum special tax, determined in accordance with Section C, that can be levied in any Fiscal Year.

"Multi-Family Property" means all Parcels of Taxable Property for which a building permit has been or may be issued for construction of a residential structure consisting of two or more residential units that share common walls, including but not limited to, townhomes, condominiums, duplexes, triplexes, fourplexes, and apartment units.

"Proportionately" means, for Developed Property, that the ratio of the actual Special Tax levied in any Fiscal Year to the Maximum Special Tax authorized to be levied in that Fiscal Year is equal for all Assessor’s Parcels of Taxable Property that is Developed Property. For Undeveloped Property, "Proportionately" means that the ratio of the actual Special Tax to the Maximum Special Tax is equal for all Assessor’s Parcels of Taxable Property that is Undeveloped Property. For Taxable Public Property, "Proportionately" means that the ratio of the actual Special Tax to the Maximum Special Tax is equal for all Assessor’s Parcels of Taxable Public Property.

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"RMA" means this Rate and Method of Apportionment of Special Tax.

"SFR Lot" means an individual numbered lot which is in its final configuration and for which a building permit may be issued for a single family residential unit.

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"Special Tax" means a special tax levied in any Fiscal Year to pay the Special Tax Requirement, as defined below.

"Special Tax Requirement" means the amount of revenue needed in any Fiscal Year to pay for: (i) Authorized Services, (ii) establishment of reserves, (iii) Administrative Expenses, and (iv) amounts needed to cure any delinquencies in the payment of Special Taxes which have occurred in prior Fiscal Years.
"Taxable Property" means all Assessor’s Parcels within the boundaries of the CFD that are not exempt from the Special Tax pursuant to law or Section F below.

"Taxable Public Property" means, in any Fiscal Year, all Parcels of Public Property within the CFD that, (i) based on a tentative map or other development plan, were expected to be Taxable Property and, (ii) based on this expectation, Maximum Special Taxes were assigned to the Parcels in prior Fiscal Years.

"Undeveloped Property" means, in any Fiscal Year, all Parcels of Taxable Property within CFD No. 2016-2 that are not Developed Property.

B. DATA FOR SPECIAL TAX LEVY

Each Fiscal Year, the Administrator shall identify the current Assessor’s Parcel Numbers for all Parcels of Taxable Property within the CFD. The Administrator shall also determine: (i) whether each Parcel of Taxable Property is Developed Property or Undeveloped Property, (ii) which Parcels are Commercial Property, Single Family Residential Property, and Multi-Family Property, (iii) the Acreage of each Parcel of Commercial Property and Multi-Family Property, and (iv) the Special Tax Requirement for the then-current Fiscal Year.

In any Fiscal Year, if it is determined that (i) a Final Map or parcel map for a portion of property in the CFD was recorded after the last date upon which the Assessor will incorporate the newly-created Parcels into the then current tax roll, (ii) because of the date the Final Map or parcel map was recorded, the Assessor does not yet recognize the new Parcels created by the Final Map or parcel map, and (iii) one or more of the newly-created Parcels meets the definition of Taxable Property, the Administrator shall calculate the Special Tax for the property affected by recordation of the Final Map or parcel map by determining the Special Taxes that apply separately to each newly-created Parcel, then applying the sum of the individual Special Taxes to the Parcel that was subdivided by recordation of the Final Map or parcel map.

C. MAXIMUM SPECIAL TAXES

Table 1 below identifies the Maximum Special Tax assigned to all Parcels of Taxable Property.
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D. METHOD OF LEVY OF SPECIAL TAXES

Each Fiscal Year, the Administrator shall determine the Special Tax Requirement for that Fiscal Year. The Special Tax shall then be levied on all Parcels of Taxable Property as follows:

**Step 1:** The Special Tax shall be levied Proportionately on each Parcel of Developed Property within the CFD up to 100% of the Maximum Special Tax for each Parcel of Taxable Property for such Fiscal Year;

**Step 2:** If additional revenue is needed after Step 1, the Special Tax shall be levied Proportionately on each Assessor’s Parcel of Undeveloped Property that is not Commercial Property within the CFD, up to 100% of the Maximum Special Tax for each Parcel of Taxable Property for such Fiscal Year;

**Step 3:** If additional revenue is needed after applying the first two steps, the Special Tax shall be levied Proportionately on each Assessor’s Parcel of Taxable Public Property, up to 100% of the Maximum Special Tax assigned to each Parcel of Taxable Public Property.

E. COLLECTION OF SPECIAL TAXES

The Special Tax shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that the City may directly bill, collect at a different time or in a different manner, and/or collect delinquent Special Taxes through foreclosure or other available methods. The Special Tax shall be levied and collected in perpetuity unless and...
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F. EXEMPTIONS

Notwithstanding any other provision of this RMA, no Special Tax shall be levied on Parcels of Commercial Property that are Undeveloped Property and Parcels of Public Property, except Taxable Public Property, as defined herein.

G. INTERPRETATION OF SPECIAL TAX FORMULA

The City reserves the right to make minor administrative and technical changes to this document that do not materially affect the rate and method of apportioning Special Taxes. In addition, the interpretation and application of any section of this document shall be left to the City’s discretion. Interpretations may be made by the City by resolution of the City Council for purposes of clarifying any vagueness or ambiguity in this RMA.

H. ENFORCEMENT

All delinquent Special Taxes billed off the County tax roll shall be subject to an immediate 10% penalty plus interest charges of 1.5 % as of the first day of the month after the delinquency date and on the first day of each month thereafter. Any such delinquent Special Taxes shall, at the City’s discretion, be placed on the next secured property tax roll. The amount placed on the roll shall include the 10% penalty and the interest charges through the following January 1. This shall not prevent the City from simultaneously pursing the delinquency by an action on a contract of guarantee against a third party who promised to pay the taxes, or from assigning such right of action to the property owner or other appropriate party.
ATTACHMENT B

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2016-2
(VINTAGE MAINTENANCE)

AMENDED AND RESTATED RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAX

A Special Tax applicable to each Assessor's Parcel in the City of Modesto Community Facilities District No. 2016-2 (Vintage Maintenance) shall be levied and collected according to the tax liability determined by the Administrator through the application of the appropriate amount or rate for Taxable Property, as described below. All of the property in CFD No. 2016-2, unless exempted by law or by the provisions of Section F below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to the CFD, unless a separate Rate and Method of Apportionment of Special Tax is adopted for the annexation area.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Acre" or "Acreage" means the land area of an Assessor's Parcel as shown on an Assessor's Parcel Map, or if the land area is not shown on an Assessor's Parcel Map, the land area shown on the applicable Final Map or other recorded County parcel map.

"Act" means the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5 (commencing with Section 53311), Division 2, of Title 5 of the Government Code of the State of California.

"Administrative Expenses" means any or all of the following: expenses incurred by the City in carrying out its duties with respect to CFD No. 2016-2, including, but not limited to, levying and collecting the Special Tax; the fees and expenses of legal counsel; charges levied by the County Auditor's Office, Tax Collector's Office, and/or Treasurer's Office; costs related to property owner inquiries regarding the Special Tax; and all other costs and expenses of the City in any way related to the establishment or administration of the CFD.

"Administrator" means the person or firm designated by the City to administer the Special Tax according to this RMA.

"Assessor's Parcel" or "Parcel" means a lot or parcel shown on an Assessor's Parcel Map with an assigned Assessor's Parcel Number.

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“Authorized Services” means the public services authorized to be funded by the CFD as set forth in the documents adopted by the City Council when the CFD was formed.

“CFD” or “CFD No. 2016-2” means the City of Modesto Community Facilities District No. 2016-2 (Vintage Maintenance).

“CFD Change” means the date on which the Resolution of Change for CFD No. 2016-2 was adopted by the City Council, thereby making this RMA the operative tax formula for the CFD.

“City” means the City of Modesto.

“City Council” means the City Council of the City of Modesto, acting as the legislative body of CFD No. 2016-2.

“Commercial Property” means all Parcels of Taxable Property for which a building permit has been or may be issued for construction of a commercial building, as determined by the City.

“County” means the County of Stanislaus.

“Developed Property” means, in any Fiscal Year, the following:

- for Single Family Residential Property, all Parcels of Taxable Property for which a Final Map was recorded prior to June 30 of the preceding Fiscal Year;
- for Commercial Property, all Parcels of Taxable Property for which a building permit for construction of a commercial structure was issued prior to June 30 of the preceding Fiscal Year.

“Escalation Factor” means, in any Fiscal Year, the greater of (i) the percentage increase, if any, in the construction cost index for the San Francisco region for the prior twelve (12) month period as published in the Engineering News Record or other comparable source if the Engineering News Record is discontinued or otherwise not available, or (ii) four percent (4.0%).

“Final Map” means a final map approved by the City pursuant to the Subdivision Map Act (California Government Code Section 66410, et seq.) that creates individual lots on which a building permit can be issued for construction of residential units without further subdivision of the lots.

“Fiscal Year” means the period starting on July 1 and ending on the following June 30.

“Maximum Special Tax” means the maximum special tax, determined in accordance with Section C, that can be levied in any Fiscal Year.

“Proportionately” means, for Developed Property, that the ratio of the actual Special Tax levied in any Fiscal Year to the Maximum Special Tax authorized to be levied in that Fiscal Year is equal for all Assessor’s Parcels of Taxable Property that is Developed Property. For
Undeveloped Property, “Proportionately” means that the ratio of the actual Special Tax to the Maximum Special Tax is equal for all Assessor’s Parcels of Taxable Property that is Undeveloped Property. For Taxable Public Property, “Proportionately” means that the ratio of the actual Special Tax to the Maximum Special Tax is equal for all Assessor’s Parcels of Taxable Public Property.

“Public Property” means, in any Fiscal Year: (i) all Parcels within the boundaries of the CFD that are owned by or irrevocably offered for dedication to the federal government, the State of California, the City or any other public agency; provided, however, that any property leased by a public agency to a private entity and subject to taxation under Section 53340.1 of the Act (as such section may be amended or replaced) shall be taxed and classified in accordance with its use; and (ii) all Parcels within the boundaries of the CFD that are encumbered by an unmanned utility easement making impractical its utilization for other than the purpose set forth in the easement.

“RMA” means this Amended and Restated Rate and Method of Apportionment of Special Tax.

“SFR Lot” means an individual numbered lot which is in its final configuration and for which a building permit may be issued for a single family residential unit.

“Single Family Residential Property” means, in any Fiscal Year, all Parcels of Taxable Property for which a building permit has been or may be issued for construction of a residential structure on an SFR Lot.

“Special Tax” means a special tax levied in any Fiscal Year to pay the Special Tax Requirement, as defined below.

“Special Tax Requirement” means the amount of revenue needed in any Fiscal Year to pay for: (i) Authorized Services, (ii) establishment of reserves, (iii) Administrative Expenses, and (iv) amounts needed to cure any delinquencies in the payment of Special Taxes which have occurred in prior Fiscal Years.

“Taxable Property” means all Assessor’s Parcels within the boundaries of the CFD that are not exempt from the Special Tax pursuant to law or Section F below.

“Taxable Public Property” means, in any Fiscal Year, all Parcels of Public Property within the CFD that, (i) based on a tentative map or other development plan, were expected to be Taxable Property and, (ii) based on this expectation, Maximum Special Taxes were assigned to the Parcels in prior Fiscal Years.

“Tax Area” means one of the three mutually exclusive geographic areas defined below and identified in Attachment 1.

“Tax Area A” means the geographic area that: (i) at the CFD Change, was anticipated to be developed with low-density single family detached residential units, and (ii) is specifically identified as Tax Area A in Attachment 1 of this RMA.
“Tax Area B” means the geographic area that: (i) at the CFD Change, was anticipated to be developed with medium-density single family detached residential units, and (ii) is specifically identified as Tax Area B in Attachment 1 of this RMA.

“Tax Area C” means the geographic area that: (i) at the CFD Change, was anticipated to be developed with commercial land uses, and (ii) is specifically identified as Tax Area C in Attachment 1 of this RMA.

“Undeveloped Property” means, in any Fiscal Year, all Parcels of Taxable Property within CFD No. 2016-2 that are not Developed Property.

B. DATA FOR SPECIAL TAX LEVY

Each Fiscal Year, the Administrator shall identify the current Assessor’s Parcel Numbers for all Parcels of Taxable Property within the CFD. The Administrator shall also determine: (i) the Tax Zone within which each Parcel is located; (ii) whether each Parcel of Taxable Property is Developed Property or Undeveloped Property, (iii) the Acreage of each Parcel of Commercial Property, and (iv) the Special Tax Requirement for the then-current Fiscal Year.

In any Fiscal Year, if it is determined that (i) a Final Map or parcel map for a portion of property in the CFD was recorded after the last date upon which the Assessor will incorporate the newly-created Parcels into the then current tax roll, (ii) because of the date the Final Map or parcel map was recorded, the Assessor does not yet recognize the new Parcels created by the Final Map or parcel map, and (iii) one or more of the newly-created Parcels meets the definition of Taxable Property, the Administrator shall calculate the Special Tax for the property affected by recordation of the Final Map or parcel map by determining the Special Taxes that apply separately to each newly-created Parcel, then applying the sum of the individual Special Taxes to the Parcel that was subdivided by recordation of the Final Map or parcel map.

C. MAXIMUM SPECIAL TAXES

Table 1 below identifies the Maximum Special Tax assigned to all Parcels of Taxable Property.
<table>
<thead>
<tr>
<th>Tax Area</th>
<th>Developed Property</th>
<th>Undeveloped Property</th>
<th>Fiscal Year 2019-20 Maximum Special Tax*</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td></td>
<td></td>
<td>$665.28 per SFR Lot</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>$5,281.13 per Acre</td>
</tr>
<tr>
<td>B</td>
<td></td>
<td></td>
<td>$350.87 per SFR Lot</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>$3,880.83 per Acre</td>
</tr>
<tr>
<td>C</td>
<td></td>
<td></td>
<td>$340.56 per Acre</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>$0 per Acre</td>
</tr>
<tr>
<td>All Tax Areas</td>
<td>Taxable Public Property</td>
<td>The Maximum Special Tax that would have applied to the Parcel prior to the Parcel becoming Public Property (as determined by the City)</td>
<td></td>
</tr>
</tbody>
</table>

* On January 1, 2020 and each January thereafter, the Maximum Special Tax rates shall be adjusted by the Escalation Factor. Each annual adjustment of the Maximum Special Tax shall become effective on the subsequent July 1.

D. METHOD OF LEVY OF THE SPECIAL TAX

Each Fiscal Year, the Administrator shall determine the Special Tax Requirement for that Fiscal Year. The Special Tax shall then be levied on all Parcels of Taxable Property as follows:

**Step 1:** The Special Tax shall be levied Proportionately on each Parcel of Developed Property within all Tax Areas in the CFD up to 100% of the Maximum Special Tax for each Parcel of Taxable Property for such Fiscal Year;

**Step 2:** If additional revenue is needed after Step 1, the Special Tax shall be levied Proportionately on each Parcel of Undeveloped Property in Tax Areas A and B, up to 100% of the Maximum Special Tax for each Parcel of Taxable Property for such Fiscal Year;

**Step 3:** If additional revenue is needed after applying the first two steps, the Special Tax shall be levied Proportionately on each Parcel of Taxable Public Property, up to 100% of the Maximum Special Tax assigned to each Parcel of Taxable Public Property.

E. COLLECTION OF SPECIAL TAXES

The Special Tax shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that the City may directly bill, collect at a different time or in a different manner, and/or collect delinquent Special Taxes through foreclosure or
other available methods. The Special Tax shall be levied and collected in perpetuity unless and until the City determines that the Special Tax no longer needs to be levied to pay Authorized Services and Administrative Expenses.

F. EXEMPTIONS

Notwithstanding any other provision of this RMA, no Special Tax shall be levied on: (i) Parcels of Undeveloped Property within Tax Area C, and (ii) Parcels of Public Property, except Taxable Public Property, as defined herein.

G. INTERPRETATION OF SPECIAL TAX FORMULA

The City reserves the right to make minor administrative and technical changes to this document that do not materially affect the rate and method of apportioning Special Taxes. In addition, the interpretation and application of any section of this document shall be left to the City’s discretion. Interpretations may be made by the City by resolution of the City Council for purposes of clarifying any vagueness or ambiguity in this RMA.

H. ENFORCEMENT

All delinquent Special Taxes billed off the County tax roll shall be subject to an immediate 10% penalty plus interest charges of 1.5 % as of the first day of the month after the delinquency date and on the first day of each month thereafter. Any such delinquent Special Taxes shall, at the City’s discretion, be placed on the next secured property tax roll. The amount placed on the roll shall include the 10% penalty and the interest charges through the following January 1. This shall not prevent the City from simultaneously pursing the delinquency by an action on a contract of guarantee against a third party who promised to pay the taxes, or from assigning such right of action to the property owner or other appropriate party.